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OFFICE OF PETITIONS

In re Application of
Hovda et al.
Application No. 09/963,736
Filed: September 26, 2001
Attorney Docket No. E-05-2

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 8, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and an Information Disclosure Statement (IDS), (2) the petition fee, and (3) a proper statement of unintentional delay.

35 U.S.C. 41(a)(7) and 151 each require payment of the issue fee as a condition of reviving an application abandoned for failure to pay the issue fee. Therefore, the filing of a continuing application without payment of the issue fee or any outstanding balance thereof is not an acceptable reply in an application abandoned for failure to pay the issue fee or any portion thereof. Accordingly, the issue and publications fee will be charged to petitioner's deposit account as authorized.

Petitioner is advised that the issue fee cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center 3739 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

¹ *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B - Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*